

**EXHIBIT M**

**City of San Leandro  
Community Development Department  
Planning Services Division**

**FINDINGS OF FACT FOR DENIAL OF  
PLN2006-00049 – 14600 and 14850 Catalina Street  
International Church Foursquare Gospel (Applicant and Property Owner)**

The matter of the application of PLN2006-00049 was heard by the Planning Commission on Thursday, April 12, 2007, at a formal public hearing. After due consideration of all public testimony, the staff report, the San Leandro General Plan and the San Leandro Zoning Code, the Commission makes the following Findings of Fact, and determines that each of them is true.

**I**

The property located at 14600 and 14850 Catalina Street, Assessor's Parcel Numbers 80G-933-20, -21, and 22-1, is in the Industrial Park (IP) District.

**II**

The subject property has an approximate area of 3.55 acres. It was formerly used as office headquarters for a data software company.

**III**

The applicant proposes to rezone the subject property from IP Industrial Park to IP(AU) Industrial Park, Assembly Use Overlay District, in order to apply for a conditional use permit for a proposed assembly use on the site.

**IV**

The proposed rezoning for inclusion in the Assembly Use Overlay is not consistent with the discussion in the City's General Plan on page 3-52, relating to appropriate industrial areas identified as being most-suitable for conversion to non-industrial uses. In addition, the project is not consistent with General Plan policies 7.09, 7.10, 10.04, 13.01, and 33.04, and Zoning Code Articles 1 and 7 which speak to industrial uses, all of which were utilized as the basis for criteria utilized in the formation of the Assembly Use Overlay District.

**V**

The property does not meet all of the criteria established for the Assembly Use Overlay. Specifically, the property is located within one of the identified General Plan Focus Areas; and the property does not abut or is not located within ¼ mile of an arterial. For the 196 properties identified to be rezoned with the Assembly Use Overlay, all eight criteria were met.

M-1

## VI

Within 500 feet of the subject property, eight businesses have filed Hazardous Material Business Plans (HMBPs); within ¼ mile of the site, an additional 13 businesses operate under a HMBP. The City's industrial zones are designed to and do in fact accommodate materials and activities that pose at least a potential hazard to human populations. The presence, and the potential future presence, of hazardous materials and activities in the vicinity of the project site and the intended assembly use, renders it inappropriate for rezoning with the Assembly Use Overlay.

## VII

Denial of the requested rezone for the property does not place a substantial burden on the religious exercise of the applicant, in that the applicant's existing site remains available for assembly uses. Further, with the recent changes to the Zoning Code to establish an Assembly Use Overlay district, 196 additional properties within the City will now be available for consideration of a conditional use permit for assembly uses. The creation of the Assembly Use Overlay creates added opportunities for assembly uses to locate, over what is currently permitted. In addition, staff believes that denial of the rezone would advance the City's compelling interest two-fold: in safeguarding the congregants from exposure to potentially adverse health and safety impacts of surrounding industrial uses; and maintaining adherence to the policies provided in the General Plan, which provided the basis for development of the Assembly Use overlay criteria.

## VIII

In recommending this denial, staff believes that there is no less restrictive means (i.e. no means short of outright denial of the rezone) that would further the City's interest in safeguarding the health and safety of the future congregants and the City's interests that led to formation of the Assembly Use overlay. In support of this conclusion, it is anticipated that any future conditions of approval that would be placed on a conditional use permit issued for the proposed assembly use (last entitlement required if rezone is approved), would not effectively ensure the health and safety of the congregants. For the formation of the Assembly Use overlay, the City cannot, by some less restrictive alternative to denial, change the facts that make the property inconsistent with the criteria formulated for establishment of the Assembly Use overlay designation.

## ACTION

The Planning Commission denies PLN2006-00049.

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Dale Reed, Acting Chair  
San Leandro Planning Commission